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Beneficial ownership of open-registry fleets

Report by the UNCTAD secretariat *

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INTRODUCTION

(i) This report has been prepared in response to the Resolution adopted by the Ad hoc Intergovernmental Working Group on the Economic Consequences of the Existence or Lack of a Genuine Link between Vessel and Flag of Registry held in February 1978, which states that:

> "... (c) Further work needs to be undertaken within UNCTAD:
> (i) to investigate the beneficial ownership of open-registry fleets....." [1].

(ii) The deliberations of the Working Group were largely based upon a consideration of a report prepared by the UNCTAD secretariat, "Economic consequences of the existence or lack of a genuine link between vessel and country of registry" (TD/B/C.4/168 and Corr.1 and Add.1), in which seven countries or territories were treated as "open-registry countries", namely Bahamas, Bermuda, Cyprus, Liberia, Panama, Singapore and Somalia. [2] Since that report was issued information has been published to the effect that Somalia has ceased to offer open-registry facilities, but the UNCTAD secretariat has not yet (i.e. as of the end of September 1978) received any official confirmation from the Government of Somalia in response to its inquiry. Nevertheless, the secretariat has proceeded on the assumption that Somalia should no longer be treated as an open-registry country.

(iii) In investigating the beneficial ownership of the open-registry fleets the secretariat commenced its investigations by making direct enquiries of those governments which it believed may be able to provide useful information. A summary of the information received is contained in Section I.

(iv) At an early stage it became apparent that the information obtainable from Governments would be incomplete, and that some supplementary investigations would be needed. The secretariat therefore commissioned a computer search and analysis of the data contained in classification society registers and commercial directories issued throughout the world, the results of which are summarized in Section II.

1/ See the report of the Ad hoc Intergovernmental Working Group (TD/B/C.4/177), annex, para.1.

2/ See, however, paragraph 11 below with respect to vessels registered in Hong Kong.

I. INFORMATION OBTAINED FROM GOVERNMENTS

1. At the session of the Ad Hoc Intergovernmental Working Group the spokesman for Group D countries stated that no vessels of socialist countries of Eastern Europe were registered in open-registry countries. 1/

2. Following the adoption of the resolution by the Ad Hoc Intergovernmental Working Group the Secretary-General of UNCTAD addressed a Note to the Governments of 43 states members of UNCTAD 2/ requesting them to advise him whether or not vessels operating under flags of open-registry countries were beneficially owned by nationals or residents of their countries and if so, to what extent, in terms of the number of vessels, the types of vessels, the tonnages (grt and dwt) and the actual countries of registration. Simultaneously, the UNCTAD secretariat requested information from the Governments of China, France, Germany, Federal Republic of, Japan, Netherlands, Norway, Sweden, United Kingdom and United States, most of which had already supplied a certain amount of information in response to enquiries made in connexion with the preparation of the earlier UNCTAD report (TD/B/C.4/168 and Corr.1 and Add.1).

3. The responses to these enquiries can be summarized as follows:

(a) Seven governments stated that their countries were involved in the beneficial ownership of vessels flying the flags of open-registry countries, and gave full or partial details of their involvement: France, Germany, Federal Republic of, Greece, Netherlands, Norway, Sweden, and the United States. Data supplied by these countries are shown in table 1.

(b) Two more governments (Canada and Japan) advised that their countries were involved in the beneficial ownership of vessels registered in other countries, but were unable to provide data on the extent of their involvement. Canada stated that it was aware of data in Lloyd's Register indicating Canadian ownership or management of vessels registered in other countries, principally the Bahamas and Bermuda, but that it has no supplementary data. Japan acknowledged that a number of the so-called "tie-in" vessels operated by Japanese shipping companies are owned by overseas subsidiaries of Japanese shipping companies but stated that "The Japanese Government, however, not being in a position to control the activities of shipping companies under foreign legislations, since the Japanese Maritime Transportation Law has no provisions relating to them, does not hold complete data of the number of such subsidiaries nor the number and the gross tonnage of ships owned by them"

1/ TD/B/C.4/177, para. 34.

2/ Australia, Austria, Belgium, Canada, Denmark, Finland, Greece, Holy See, Iceland, Ireland, Israel, Italy, Liechtenstein, Luxembourg, Monaco, New Zealand, Portugal, San Marino, South Africa, Spain, Switzerland, Turkey and Yugoslavia.

(c) The governments of five other countries stated that their countries were not involved in the beneficial ownership of open-registry vessels: Belgium, China, Finland, Turkey and Yugoslavia. China added that its trade was partly carried by vessels chartered on a long-term basis.

(d) The governments of a further five countries stated that to the best of their knowledge their countries were not involved, or that they did not possess information indicating involvement: Australia, Liechtenstein, Luxembourg, New Zealand and Spain.

(e) The governments of a further seven countries stated that they were not in possession of the necessary information to state whether or not, or to what extent, their nationals or residents were involved: Austria, Denmark, Ireland, Israel, Monaco, Switzerland and the United Kingdom. Switzerland advised that no Swiss private companies which had ships in the register of Swiss ships owned vessels flying flags of open-registry countries but that available information did not permit the Swiss authorities to establish whether other nationals or residents of Switzerland were beneficial owners of vessels under flags of open-registry countries. The United Kingdom advised that, as its own statistics were limited to registration in the United Kingdom and dependent territories, there was no way of obtaining the information required except by consultation with the shipping industry: the Government stated that consultations were in progress and that it would advise the secretariat of the results. Further details have not yet been received. Israel advised that the authorities had technical problems in collecting the necessary data, but were continuing their enquiry.

(f) The Holy See indicated that it had no information to furnish on this subject.

(g) Italy stated that the policy followed by the Italian Government has always been strictly opposed to the registration of vessels owned by Italian nationals or residents in open-registry countries, but did not furnish any information on the extent to which this policy is being observed.

(h) Four countries failed to respond to the enquiries of the secretariat: Iceland, Portugal, San Marino and South Africa.

4. Apart from the enquiries mentioned above, the UNCTAD secretariat also wrote to the Governments of Bahamas, Bermuda, Cyprus, Liberia, Panama and Singapore asking whether they would be prepared to assist the secretariat in making further enquiries into the beneficial ownership of the open-registry fleets, having regard to the resolution unanimously adopted by the Working Group.

5. In response to these latter enquiries the Government of Bermuda replied that it would be glad to receive a visit from an official of the secretariat to discuss the matter, and that it "welcomes the opportunity to assure the UNCTAD secretariat that Bermuda is not operating an 'open-register'." 3/ The Government of the Bahamas

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3/ It was not possible to arrange a visit before completion of the present report, but it is hoped that an official of the secretariat will be able to visit Bermuda in the near future.

Tabl

Beneficial ownership of open-registr

Country (and date of reference)	Bahamas	Bermuda	Cyp No. '0
France (1.4.1977) a/	-	-	5
Germany, Fed. Rep. of (1.1.1978) b/	-	-	28
Greece (31.3.1978) c/	..	..	.
Netherlands (30.6.1977) d/	-	-	3
Norway (1.1.1978) e/	..	..	.
Sweden (April 1978) f/	-	-	.
USA (31.1.1976) g/	-	-	1
Total identified fleet h/	-	-	37
Total fleet (1.7.1977) i/ - number and '000 dwt	109/ 147	88/ 3,040	800/ 4,015

a/ Vessels under flags of convenience controlled by French s

b/ Ocean vessels operated under foreign flags, including 41

c/ Ships beneficially owned by Greek nationals but registere the Greek Seamens' Pension Fund (NAT). No data are avai flags of open-registry countries and not contracted with Government to be small.

d/ Dutch ships under flags of convenience. The Government be guaranteed.

e/ Vessels with Norwegian participation under flags of conve participation accounted for 539,000 dwt.

f/ Vessels with more than 50 per cent Swedish ownership oper bulk carriers (135,000 dwt) which are half-owned by a Swe the Swedish Government does not regard as being registere

g/ Foreign flag merchant ships owned by United States parent countries. Excluded are ships owned by United States ci in and incorporated in the United States.

h/ Totals for each open-registry country, as well as for Swe

i/ Source: "Review of Maritime Transport, 1977 : report of a United Nations publication. The total figures in this different dates, cut-off points, and countries.

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fleets reported by home countries (Number of vessels and dwt)

as dwt	Liberia No.	Liberia '000 dwt	Panama No.	Panama '000 dwt	Singapore No.	Singapore '000 dwt	Total No.	Total '000 dwt
33	12	428	9	126	-		26	587
154	39	1,869	47	550	108	1,699	222	4,272
	..		..		..		951	29,154
3	21	1,197	48	158	2	5	74	1,362
	14	..	4	..	14	..	36	1,224
	4	73	5	..	-		9	73
3	374	43,224	86	5,290	-		401	48,517
192	464	46,791	199	6,124	124	1,704	1779	85,190
	2,517/ 155,951		3,267/ 31,593		872/ 11,351		7,753/ 206,099	

ipowners.

essels under Panamian flag on bareboat charter (493,691 dwt).

under flags of open-registry countries and contracted with
ble on ships beneficially owned by Greek nationals under
T, but the number of such ships is believed by the Greek

as stated that the completeness of this information cannot

ence; of the total tonnage of 1,224,000 dwt, Norwegian

ting under open-registry flags. These data exclude two
sh shipowner and half by the Liberian Government and which
under a flag of convenience in the ordinary way.

ompanies and registered under flags of open-registry
zens or foreign companies not owned by a company located

n are incomplete.

e UNCTAD secretariat" (TD/B/C.4/178) - to be issued also as
able are not comparable with those in table 2 on account of

replied that it is not in a position to assist the secretariat in its enquiries, but added: "The Bahamas has been operating as an open-registry country for a little over a year. All Bahamian ships, however, are presently owned by a majority of Bahamian nationals and the remainder by Commonwealth nationals; as such, they continue, all, to meet fully the former closed-registry requirements for ships to be registered in the Bahamas. In other words, although our register is now open to non-Commonwealth nationals, no foreigners have yet taken advantage of our facilities to register their vessels here." An interim reply was received from the Government of Cyprus, but no replies have been received from the Governments of Liberia, Panama or Singapore.

6. Thus, the net result of the secretariat's enquiries among Governments has been to identify the ownership of around 1,779 vessels of 85 million tons dwt, which would amount to only 41 per cent of the total tonnage of the open-registry fleets as at mid-1977. In terms of individual flags, the government responses identified ownership of 5 per cent of the dwt tonnage of the Cypriot fleet, 30 per cent of the Liberian fleet, 19 per cent of the Panamanian fleet, and 15 per cent of the Singaporean fleet.

II. CLASSIFICATION REGISTERS AND COMPUTER ANALYSIS OF COMMERCIAL DIRECTORIES 1/

7. A computer search was undertaken of data contained in the registers of classification societies and commercial directories in order to trace the ownership of vessels beyond the nominal owners recorded in the registers of open-registry countries. As in the case of the secretariat's enquiries, the aim has been to identify the beneficial owners, i.e. those who gain the pecuniary benefits from the shipping operations. However, certain of the commercial directories trace ownership only back to the first company of substance (as distinct from "paper companies" in the chain of ownership) which could be held responsible in operational matters, such companies being referred to as the "true managers" (as distinct from the nominal managers of "paper companies"). Consequently, in undertaking an investigation from these sources it has been appropriate to attempt a double identification of "true managers" as well as of beneficial owners.

8. For the purpose of this investigation the "true manager" of a vessel has been defined as the person, company, or organization responsible for day-to-day husbandry of the ship concerned. The data on "true managers" should be interpreted primarily as relating to the control exercised over open-registry operations.

9. The true country of a vessel has been assumed to be the country of domicile of the true manager. In some cases it has been difficult to identify the manager's country of domicile. A Greek shipowner might, for example, charter his vessels in London, handle their operations and maintenance programme from New York, and crew the ships from Greece. Similarly, another ship might be crewed from the Philippines, operated from Hong Kong and chartered from Japan. In such instances the country or territory from which the operation and maintenance of vessels are carried out (in these instances the United States and Hong Kong) has been taken as the true country or territory of management. To cover the special case of Greek operations, data have been tabulated in such a way as to facilitate a separate identification of vessels whose management and ownership have been attributed to United Kingdom-based and to United-States-based Greek shipowning entities.

10. The "true manager" of a vessel may also be its "beneficial owner", but in many instances the registers and directories indicate that the beneficial owner is a different person, company or organization. In such cases the beneficial owner indicated has been taken as the beneficial owner for the purposes of this report, and his or its domicile has been taken as the country of beneficial ownership. In the absence of any evidence indicating a difference between true and beneficial ownership, the true manager has been assumed to be the beneficial owner also, but as the evidence of this nature is understood to be incomplete, it is likely that the number of cases where true management and beneficial ownership differ is somewhat higher than shown in this report.

11. It had been intended to confine this investigation to the ownership of vessels registered under the flags of the six open-registry countries which were used as the basis of the secretariat's enquiries to governments, namely Bahamas, Bermuda, Cyprus, Liberia, Panama and Singapore. However, in view of the high percentage of true management and beneficial ownership of vessels under the flags of these countries traceable to Hong Kong, it was considered desirable to extend the investigation to cover vessels registered in Hong Kong. This extended coverage needs to be taken into account when comparing information received from governments with information received in the course of the present investigation.

1/ This section is based upon a report prepared for the UNCTAD secretariat by Messrs. A. and F. Appleaore (London) Ltd.

12. The result of the investigation has been to identify the true management and beneficial ownership of 98 per cent of the deadweight tonnage registered under flags of convenience. Ownership of the open-registry fleets appears to be concentrated in the hands of three countries and one territory - Greece, Hong Kong, Japan and the United States - which are true managers of 82 per cent of the total deadweight tonnage and which are beneficial owners of no less than 78 per cent. Twelve more countries are true managers of 14 per cent of the tonnage and beneficial owners of 16 per cent. The remaining countries are beneficial owners of insignificant percentages of the total.

13. Table 4 summarizes the data on home countries which beneficially own significant percentages of the open-registry fleets. It should be borne in mind, however, that data taken from such a mixture of sources cannot be expected to be accurate with respect to each and every detail: rather, the data should be accepted as providing an overall estimate of the situation. Second, it is possible that some countries purchasing open-registry vessels for transfer to their own flags may have been recorded as beneficial owners before completing transfer operations. Third, as noted above, the data cover vessels registered in Hong Kong, and hence are not fully comparable with the data received from governments. Fourth, where evidence on beneficial ownership was lacking, the true manager was assumed to be the beneficial owner, with a probable understatement of the difference between true management and beneficial ownership.

14. Even taking all of the above factors into consideration there would appear to be no doubt as to the extremely high degree of concentration both of the beneficial ownership of open-registry vessels and of the control of open-registry operations as indicated by true management. It is also apparent that there are some significant variations in the patterns of differences between beneficial ownership and true management. Some countries, such as Japan and the Federal Republic of Germany, would appear to be equally involved in the management and ownership of open-registry vessels; others, such as the United States, Greece, Hong Kong, Italy and Switzerland, would appear to be much more involved as beneficial owners than as managers; others, such as the United Kingdom, Monaco, and Singapore, appear to be much more heavily involved in management than in ownership. A considerable amount of open-registry tonnage is controlled by shipowners who themselves relatively insignificant beneficial owners, notably by Bermuda and London-based Greek shipowners.

Table 2

True managers and beneficial owners of open registry fleets, 1978

Home country or territory	True managers '000 tons dwt	Percentage of total dwt	Beneficial owners '000 tons dwt	Percentage of total dwt
United States	57,579	29.2	62,376	31.7
Greece	25,822	13.1	40,666	20.7
Hong Kong	20,581	10.5	33,304	16.9
Japan	18,728	9.5	18,105	9.2
Germany, Fed.Rep.	5,446	2.7	5,461	2.8
Unspecified	3,313	1.7	3,523	1.8
Italy	2,337	1.2	3,195	1.6
Switzerland	2,468	1.2	3,089	1.6
Singapore	3,104	1.6	2,740	1.4
Cananda	1,950	1.0	2,699	1.4
Israel	2,109	1.1	2,523	1.3
United Kingdom	12,316	6.3	2,284	1.2
Norway	2,001	1.0	2,010	1.0
Netherlands	809	0.4	1,201	0.6
Monaco	7,158	3.6	1,052	0.5
Rep. of Korea	1,049	0.5	1,049	0.5
Countries and entities, each beneficially owning less than 0.5 %	26,592 a/	13.4	7,887	4.0
Unidentified	3,667	2.0	3,665	1.9
World total	196,849	100.0	196,849	100.0

a/ This figure is mainly attributable to Bermuda (12 million tons), United Kingdom-based Greek shipowners (8 million tons) and United States-based Greek shipowners (1 million tons), none of which are involved in beneficial ownership to any significant extent (owning respectively 10,000 tons, 201,000 tons and 444,000 tons).

III. CONCLUSIONS

15. It is apparent that the governments of the home countries generally lack complete knowledge of the involvement of their nationals and residents in open-registry operations. Of the nine countries which stated that they were involved in the beneficial ownership of open registry vessels, two indicated that they had no data, while a further five stated, explicitly or implicitly, that the data they supplied was only partial. Of the seven countries which stated that they had no data on their involvement, five would appear to be substantially involved, even making allowances for possible inaccuracies in the data compiled from unofficial sources.

16. Thus, apart from throwing light on the ownership and commercial control of the open-registry fleets, the data obtained for the preparation of this report have confirmed the validity of claims which were made in the Working Group to the effect that the open-registry fleets were operating without effective government control or regulation, since without the necessary knowledge governments are not able to exercise control.